

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Advantage Equipment Resources, :
LLC, :
Plaintiff : Civil Action 2:13-cv-00542
v. : Judge Watson
The Middleby Corporation, : Magistrate Judge Abel
Defendant :
:

ORDER

Defendants' August 29, 2013 motion to vacate the notice of the preliminary pretrial conference (doc. 12) is DENIED.

Based on my reading of the briefs regarding defendant's motion to dismiss/stay, should this federal lawsuit go forward it should begin with The Middleby Corporation filing their motion for summary judgment within a time frame consistent with Judge Bridget May McGrath's February 21, 2012 Briefing Scheduling Order, (July 26, 2013 Motion to Dismiss, Ex. 5, PageID 175), because it would be an inefficient use of judicial resources to permit a party to voluntarily dismiss to avoid briefing a case-dispositive motion and then re-start the case anew. Nonetheless, this court and the public have an interest in the expeditious, just resolution of disputes. In many cases, the best resolution of a dispute is the parties' own early, hard-bargained, negotiated resolution of their dispute. Unfortunately, it appears that the parties here have spent considerable time,

energy, and money on this dispute without being able to resolve it themselves. This court has an interest in determining what settlement discussions the parties have had and whether they have reasonably exhausted those discussions. If not, the court needs to determine what additional information, if any, the parties need to have meaningful settlement discussions, and set a framework for those discussions.

The parties must hold a conference of the parties to discuss the matters set out above but need not prepare a Rule 26(f) report. The Rule 16 scheduling conference will be limited to the matters set out above.

s/Mark R. Abel
United States Magistrate Judge